

INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

REC'D 29 NOV 2004

WIPO PCT



Applicant's or agent's file reference P104904PCT	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/GB 03/03844	International filing date (day/month/year) 04.09.2003	Priority date (day/month/year) 04.09.2002
International Patent Classification (IPC) or both national classification and IPC C04B16/08		
Applicant PURCRETE LIMITED et al.		

- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 6 sheets, including this cover sheet.
 - ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☒ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 12.03.2004	Date of completion of this report 25.11.2004
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Grundke, H Telephone No. +49 89 2399-8564 

BEST AVAILABLE COPY

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/GB 03/03844**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17))*:

Description, Pages

1-14 as originally filed

Claims, Numbers

16-40 as originally filed

Drawings, Sheets

1/5-5/5 as amended (together with any statement) under Art. 19 PCT

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB 03/03844

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

IV. Lack of unity of invention

1. In response to the invitation to restrict or pay additional fees, the applicant has:

- ☒ restricted the claims.
☐ paid additional fees.
☐ paid additional fees under protest.
☐ neither restricted nor paid additional fees.

2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is

- ☐ complied with.
☒ not complied with for the following reasons:

see separate sheet

4. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:

- ☐ all parts.
☒ the parts relating to claims Nos. 16-40 .

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	40, 60
Inventive step (IS)	Yes: Claims	
	No: Claims	17-39
Industrial applicability (IA)	Yes: Claims	16-40
	No: Claims	

2. Citations and explanations

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/GB 03/03844**

see separate sheet

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB 03/03844

Item IV:

Independent claims 1, 15, 41, 53, 54, 95, 96 in a broad sense have some link by presence of PUR and concrete or binding agent (considered as the main invention in this case), whereas independent claims 16 and 40 are directed to a dried PUR/method for its production (i.e. a known organic polymer type).

PUR is known as are compositions containing PUR/concrete or binding material which fact is extensively made clear by the X- documents of the search Report cited against (amongst others) present claim 1.

Independent claims 16 and 40 (and the claims dependent thereto) are in this situation not so linked with the other mentioned claims as to realize a single inventive concept.

These claims have nothing in common with the construction elements or concrete or binding agents in combination with PUR.

Item V:

Reference is made to the following document/s/:

D1: GB-A-1 225 299 (BASF) 17 March 1971 (1971-03-17)

D2: WO 97/31876 A (WETTER REGINA ; ALPHA BREVET SA (CH)) 4 September 1997 (1997-09-04)

D3: DATABASE WPI Week 200279 Derwent Publications Ltd., London, GB;
XP002270116 & RU 2 188 176 C (GERASIMOV V V) 27 August 2002 (2002-08-27)

D4: US-A-5 422 051 (SAWYERS JOHN P) 6 June 1995 (1995-06-06)

D5: DATABASE WPI Week 200042 Derwent Publications Ltd., London, GB;
XP002270117 & RU 2 140 886 C (LAPTEV I) 10 November 1999 (1999-11-10)

Preliminary remark: Independent method claim 16 refers to a use, however the mentioned use in concrete has no limiting character. Moreover the features under a) (for a time sufficient) and c) (drying) are extremely broad and it is unclear in which product parameters a known wet and thereafter dried PUR foam is clearly distinguishable from the claimed product of claim 40 (which is directed to the product per se irrespective of its method of production).

It is noted that at page 4, fourth para of the description a certain advantage is indicated,

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB 03/03844

however, it is not clear at present whether this advantage can be obtained already with the broad process parameter range underlying claim 16.

It would appear that in the art mentioned using PUR in water potentially the same effects are realized underlying the claimed invention, at least in the broadest claims.